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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,635	10/14/2003	John H. Bridges III	38494-00224C	3706
23504	7590	08/11/2004	EXAMINER	
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			LEYBOURNE, JAMES J	
		ART UNIT	PAPER NUMBER	2881

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/684,635	BRIDGES ET AL.	
	Examiner	Art Unit	
	James J. Leybourne	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 23 is objected to because of the following informalities: In line 1, "15" should be "17". Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re lean Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-24 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim1-6 of copending Application 10422708. This is a double patenting rejection.

Claims 1-24 of the Application are anticipated by claims 1-24 of the of copending Application.

This is a provisional statutory double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 25-29 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure, which is not enabling.

In claim 25, line 6 cites "establishing a plurality of conditions" but does not state what the conditions are. Establishing a plurality of conditions is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claims 26 and 27 are not enabled because they depend from claim 25.

In claim 28, line 7 cites "establishing at least one condition" but does not state what the condition is. Establishing at least one condition is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure.

Claim 29 is not enabled because it depends from claim 28.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites the limitation "residual detergent" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mize et al. (US 2003/0124025).

Mize et al. teach that experts on biological warfare regard the bacteria Bacillus anthracis as the biggest hazard [0006, lines 14-15] and the US Postal Service is

sending mail to be sterilized by electron beam machines installed at mail sorting centers to be used on person-to-person and consumer-to-business mail.

Regarding claim 2, Mize et al. do not teach an exposure time to the electron beam of 30 to 60 minutes. As known in the art, the radiation dosage depends on many factors including beam intensity and exposure time. It would be obvious to one of ordinary skill in the art to select an exposure time sufficient to destroy the biological agents.

Regarding claim 4, Mize et al. do not teach placing letter sized mail in a mail tray and sealing the tray. The use of mail trays in the US Post Office is well known and it would be obvious to one of ordinary skill in the art to seal mail that may be contaminated in the trays to contain the biological agents.

Regarding claims 7 and 8, Mize et al. do not teach decontaminating a vehicle used for transporting potentially contaminated mail. It would be obvious to one of ordinary skill in the art to provide a decontamination area and to decontaminate vehicles that have transported potentially contaminated mail in order to prevent further contamination in case of leakage of the contaminant. Mize et al. teach the decontaminant is preferably bleach. The motivation for using bleach is that Mize et al. teach bleach is inexpensive, easily prepared with dilution in water and proven effective against bacterial and viral agents [0050].

10. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupp (USPN 5261460). In column 1, lines 20-37, Rupp teaches that HAZMAT area formats typically, include a "hot zone" which is marked or roped off to contain the area.

The hot zone is restricted to the entry team only and is accessible by a single entrance way (contamination reduction area) so that remnants from the spill on the boots and other personal protective equipment can be contained properly. The hot zone is surrounded by a marked off "warm zone" (support zone) which is restricted to fire fighting personnel and members of the support crew. In an effort to prevent the contamination of areas outside the hot zone, clean-up stations have been provided near the hot zone entryway so that the personal protective equipment of the fire fighter can be washed thoroughly, before he or she is permitted access to the warm zone.

As shown schematically in Fig. 4, the hot zone may contain a plurality of shower stalls 30 and personal protective equipment cleansing pools 40. The purpose of these personnel decontamination sites is to cleanse the personal protective equipment of the fire fighters prior to their exit through the single passageway 60.

Although Rupp uses a toxic spill as an example of a hazardous material, the typical HAZMAT area format can be applied to any situation requiring isolation of the material site and special protective clothing or equipment. It would be obvious to one of ordinary skill that the support zone should be portable to permit it to be moved to different sites and that it would be desirable to use tents or other lightweight structures for portability. For large-scale operations, it would also be obvious to include some form of command post.

11. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. (US 2003/0037812). Stewart et al. disclose a decontamination and containment processing system 10 contains a plurality of components including shelter

assemblies, and a shower and water delivery systems that can be implemented for any number of contamination scenarios. The selected components can be packed into one or two transport containers to be transported and deployed at the selected decontamination area ([0054], lines 1-16). As shown in Fig. 3, the system uses tents to define decontamination areas.

Relevant Prior Art

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walles (USPN 6485683) discloses a vehicle for use in chemical or biological attack that includes a command center as well as a decontamination cubicle and an area for donning protective suits.

Avant (US 20030127505) discloses a bag for handling potentially contaminated mail.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James J. Leybourne whose telephone number is (571) 272-2478. The examiner can normally be reached on M-F 9:00- 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on (571) 272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 9, 2004

JJL

Nikita Wells

NIKITA WELLS
PRIMARY EXAMINER *08/09/04*